IN THE

Supreme Court of the United States

OCTOBER TERM 1953

No. 763

JOHN A. VENZEL, *Petitioner*

v.

UNITED STATES STEEL COMPANY

I

WHETHER PETITIONER'S EMPLOYMENT WAS FOR A "FIXED TERM" OF THREE MONTHS IS NOT BEFORE THE COURT

Respondent, in its brief in opposition to the petition for certiorari, states the question to be whether employment for a "fixed term" is "temporary" and so without the statute, and rests its argument mainly on the thesis that it is. (Br. 1, 2, 5). This argument, which assumes as an established fact the ultimate factual issue which can only be decided below, actually avoids the question in issue before the Court. As this case now stands, this argument is either (a) merely a restatement of the question—whether the withholding of seniority and access to grievance procedure during the first three months of employment makes the employment temporary, or (b) a concession that it does not.

(C.A. 3), which decided that the Act requires employment before and after military service to be considered a consecutive, uninterrupted period. There the collective bargaining agreement provided that vacations "can be taken only in the current calendar year." The court held that an employee whose entry into military service prevented him from taking a vacation that year could take it in the year he returned, which for this purpose must, under the Act, be considered the "current calendar year."

The importance of this question is the same as that of the question decided below, and decisions of this Court rejecting respondent's principles bear on it with equal directness.

Respectfully submitted,

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July 9, 1954

IN THE

Supreme Court of the United States

OCTOBER TERM, 1953

No.....

JOHN A. VENZEL,
Petitioner,
vs.
UNITED STATES STEEL COMPANY

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE

To the Honorable, the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Now comes International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, and respectfully moves this Court, pursuant to Rule 27, paragraph 9, of the Rules of this Court, for leave to file the accompanying brief in this case *amicus curiae*. The consent of the attorneys for the petitioner herein to the

filing of this brief has been obtained and filed with the Clerk of the Court. The consent of the attorney for the United States Steel Company was requested but was refused. The interest of the International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO and its reasons for asking for leave to file a brief *amicus curiae* are set forth below.

Movant is a labor organization of approximately 1,500,000 members whom it represents for purposes of collective bargaining in the automobile, aircraft, agricultural implement and related industries. It has approximately 2,300 collective bargaining contracts with a similar number of employers in these industries. Among its membership are numerous veterans having returned or returning from military service and numerous employees leaving for and having left for military service from employment. Many of these are in substantially the same position as is the petitioner, John A. Venzel herein, being required or having been required to leave for military service without completing their so-called "probationary" period of employment under a collective labor agreement. The re-employment and seniority rights of such veterans, as guaranteed by the military service statutes, are vitally affected by the decision of the Court of Appeals in the instant case below.

Movant desires that the accompanying brief be filed on his behalf in order that the Court may be apprised of the widespread significance and effect of the decision rendered below in this case. Virtually all of the collective bargaining agreements to which movant is a party contain probationary employment clauses similar to that involved in the instant case. The application of these clauses to veterans returning to employment from military service is seriously disturbed by the decision below for which

reason the International Union, UAW-CIO is vitally concerned that this Court grant the petition for writ of certiorari filed herein. Among the contractual relationships apt to be disrupted by the decision below are those between movant and the Ford Motor Company, the General Motors Corporation, the Chrysler Corporation, the International Harvester and many others. This is so because it has been the almost universal practice of employers with whom our organization has collective bargaining contracts containing provisions for probationary employment, to accord seniority credit for time spent in military service to returning veterans who left for such military service without completing their probationary period. It has been, thus far the understanding of practically all employers with whom we have contractual relationships that "probationary employees" are not "temporary" employees within the meaning of the military service statutes here involved. Needless to say, the decision of the Court below will have an unsettling effect on these rights as currently recognized and accorded to veterans. Thus, movant, as an organization which both during and ever since World War II has taken great interest that no veterans be prejudiced in their employment relationships because of military service, is most anxious that the decision of the Court below because of its adverse treatment of the re-employment and seniority rights of veterans be reviewed and reversed by this Court.

The considerations of public policy toward the questions raised by this cause assume grave proportion in the face of this nation's continuing defense and military service program which finds thousands of our young men every month leaving for military service from private employment in which employment they should not in any wise be prejudiced because of the need for such service.

Movant respectfully requests that the motion for leave to file a brief as *amicus curiae* in the instant case be allowed.

Respectfully submitted,

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Dated: June 29, 1954.